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| 10/523,210      | 01/27/2005  | Ulrich Gries         | PD020075            | 8799             |

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| EXAMINER |
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RECEK, JASON D

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| ART UNIT | PAPER NUMBER |
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2142

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01/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/523,210

Applicant(s)

GRIES, ULRICH

Examiner

Jason Recek

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This is in response to the amendments filed October 31<sup>st</sup> 2007 which concern application 10/523210.

### ***Status of Claims***

Claims 2 and 9 have been cancelled.

Claims 1, 3-8 and 10-11 are pending.

### ***Response to Arguments***

1. Applicant's arguments, see pg. 6-8, filed 10/31/07, with respect to the claim objections, specification objection and 35 U.S.C. 112 rejections have been fully considered and are persuasive. The objection to the specification, the claim objections and 35 U.S.C. 112 rejections of claims 1-6 have been withdrawn.
2. Applicant's arguments filed 10/31/07 have been fully considered but they are not persuasive. Applicant argues that Smyers does not disclose claim 1 as amended, particularly that the control communication is "included in said isochronous data communication". This argument is not persuasive because Smyers does disclose that the isochronous data pipe transfers control communications (paragraph 23, ln. 6-9).

Applying a reasonable interpretation to the claim language one of ordinary skill in the art would understand this to mean that the control communication is **included** in the data communication.

Applicant also argues that Smyers does not disclose "a control command ... for controlling a functionality having an effect directly recognizable by a user" as recited by claim 1. This argument is not persuasive. Smyers discloses that one type of control command is a playback command (paragraph 51). A user would directly recognize whether or not this command was received timely based on whether or not the program the user wants to play is displayed. Therefore, Smyers does in fact disclose "controlling a functionality having an effect directly recognizable by a user".

Applicant argues that Smyers does not disclose claim 7 as amended. It is noted that the amendment to claim 7 recites the features that correspond with the method of claim 1 and no new features are introduced. This argument is not persuasive because Smyers discloses the hardware to perform the method of claim 1 and thus also discloses the network station as recited in claim 7 (Figs. 2-3, paragraphs 23-28).

Applicant argues that claims 4, 6, 8 and 11 depending from the independent claims 1 and 7 are patentably distinguishable over the art (Smyers). This argument is not persuasive in view of the reasons discussed above (Smyers anticipates the

independent claims) and because no specific argument is given, only a general allegation of "additional inventive steps".

Applicant argues that claims 3 and 10 are not disclosed by the combination of Smyers and Fergusson since Smyers and the combination of Smyers and Fergusson do not disclose the features of the independent claims 1 and 7. This argument is not persuasive because Smyers alone discloses the features of claims 1 and 7, see above.

Applicant argues that claim 5 is not disclosed by the combination of Smyers and Riddle because Smyers does not disclose claim 1. This argument is not persuasive because Smyers does in fact disclose the features of claim 1, see above.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4, 6-8 and 11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Smyers US2002/0026540 A1.

Regarding claim 1, Smyers discloses "a bus structured network" as an IEEE 1394-1995 serial bus network (pg. 2 paragraph 13, Fig. 2), "issuing a first control communication from said first device to a first at least one of said plurality of second devices by means of an asynchronous data communication" as non-realtime control communications (pg. 3 paragraph 14), and "issuing real-time data communication ... by means of an isochronous data communication" as a stream of data transmitted on an isochronous channel (pg. 3 paragraph 14), and "issuing a second control communication ... said second control communication being included in said isochronous data communication" as a control communications that includes a real-time component, which means the control communication is sent over the isochronous data pipe (paragraphs 23, 34-35, 37), and "a first control command ... for controlling a functionality having an effect directly recognizable by a user if said first control command is not timely executed" as sending a control signal that if not timely received will cause data to be lost (paragraph 34 – this will be directly recognizable by the user at a later time when attempting to view the program), or sending a control command for playback which would be instantly recognizable by the user whether the command timely executed (paragraph 51).

Regarding claim 4, Smyers discloses "control command is sent in a repeated manner" as a control communication that is continuously sent (pg. 5 paragraph 34).

Regarding claim 6, Smyers discloses “first control communication to said first at least one second device” as a device that issues control commands, such as a VCR (pg. 4 paragraph 26), “communicating said second control command to a second at least one of said plurality of second devices” as AVHDDs communicating commands (paragraph 33), and “by means of isochronous data communication” as devices that transmit control communications among themselves using isochronous communication (pg. 4 paragraph 23, pg. 5 paragraph 34).

Regarding claim 7, Smyers discloses “a network station for performing [the method according to claim 1]” as the components of Smyers perform the method of claim 1 (Fig. 2, pg. 3 paragraph 14), “an interface to the network” as an interface circuit (paragraph 28), “means for performing said asynchronous [and isochronous] data communication” as the system sends both asynchronous and isochronous communication (pg. 5 paragraph 34), and “using said isochronous data communication to communicate said second control communication” as isochronous control communications (pg. 4 paragraph 23, 34, 37).

Regarding claim 8, Smyers discloses “transmitting said first control command onto an isochronous channel” as sending control information on an isochronous channel (pg. 4 paragraph 23).

Regarding claim 11, Smyers discloses "wherein the network interface is an IEEE-1394-network interface" as a IEEE 1394-1995 network interface (pg. 4 paragraph 23, Fig. 1, 2).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyers in view of Fergusson U.S. Pat. 6,404,533 B1.

Regarding claim 3, Smyers does not disclose "said first control command is configured to control one of [...] and a visible parameter for at least one display" however Fergusson teaches using an isochronous signal to communicate video control data (col. 5 ln. 18-35).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify Smyers with the video control feature of Fergusson. The motivation to combine is simply to use the isochronous communication for a broader range of control communication since Smyers teaches that control commands can successfully be



transferred using isochronous communication and Fergusson teaches that one type of control command is to control video.

Regarding claim 10, it is substantially similar to claim 3 and is therefore rejected for the same reasons.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smyers in view of Riddle U.S. Pat. 5,434,860 B1.

Regarding claim 5, Smyers does not disclose "detecting a disturbance on the communication network, determining a degree of said disturbance, and reducing a use of said isochronous data communication" however this is taught by Riddle as a system that limits real-time communication whenever reduced network performance is detected (col. 2 ln. 10-16, 43-53).

It would have been obvious at the time of the invention to one of ordinary skill in the art to modify Smyers with the real-time traffic reduction feature of Riddle. The motivation is to maintain network performance by reducing traffic.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stienstra US 2004/0174431 A1 discloses providing control data with a real-time stream of content data (paragraph 48).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Recek whose telephone number is (571) 270-1975. The examiner can normally be reached on Mon - Thurs 8:30am-5:00pm.

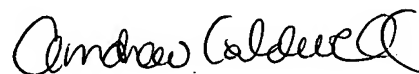
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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1/15/08

(571)-270-1975



ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER